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8 **BEFORE THE**
9 **STRUCTURAL PEST CONTROL BOARD**
10 **DEPARTMENT OF PESTICIDE REGULATION**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation/Petition to
13 Revoke Probation Against:

Case No. 2013-45

14
15 **AARON JOHN ESSERT**
16 **5009 Summerwind Way**
17 **Bakersfield, CA 93308**
18 **Applicator License No. RA52425**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

19
20 Respondent.

21 **FINDINGS OF FACT**

22 1. On or about May 10, 2013, Complainant Susan Saylor, in her official capacity as the
23 Interim Registrar/Executive Officer of the Structural Pest Control Board, Department of Pesticide
24 Regulation, filed Accusation and Petition to Revoke Probation No. 2013-45 against Aaron John
25 Essert (Respondent) before the Structural Pest Control Board. (Accusation/Petition to Revoke
26 Probation attached as Exhibit A.)

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1 2. On or about August 17, 2011, the Structural Pest Control Board (Board) issued
2 Probationary Applicator License No. RA52425 in branch 2 and 3 to Respondent. On or about
3 January 14, 2012, the license was suspended, pursuant to Family Code section 17520. The
4 Applicator License was in full force and effect at all times relevant to the charges brought in
5 Accusation/Petition to Revoke Probation No. 2013-45 and will expire on August 17, 2014, unless
6 renewed.

7 3. In a prior matter entitled, "In the Matter of the Application of: Aaron John Essert,"
8 the Board issued a Stipulation for a Probationary License and Order, effective August 17, 2011,
9 in which Respondent's applicator license was placed on probation for a period of 5 years with
10 certain terms and conditions.

11 4. On or about May 16, 2013, Respondent was served by Certified and First Class Mail
12 copies of the Accusation/Petition to Revoke Probation No. 2013-45, Statement to Respondent,
13 Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections
14 11507.5, 11507.6, and 11507.7) at Respondent's addresses of record which, pursuant to Business
15 and Professions Code section 136, are required to be reported and maintained with the Board.
16 Respondent's addresses of record were and are:

17 5009 Summerwind Way
18 Bakersfield, CA 93308.

19 And

20 3400 Unicorn Road, Unit 106
21 Bakersfield, CA 93308

22 5. Service of the Accusation/Petition to Revoke Probation was effective as a matter of
23 law under the provisions of Government Code section 11505, subdivision (c) and/or Business &
24 Professions Code section 124.

25 6. On or about June 10, 2013, the aforementioned documents which were served on
26 Respondent at 5009 Summerwind Way, Bakersfield, CA 93308, were returned by the U.S. Postal
27 Service marked "Unclaimed." The address on the documents was the same as the address on file
28 with the Board. The Board has made attempts to serve the Respondent at both his addresses on

1 file. Respondent has not availed himself of his right to file a notice of defense and appear at
2 hearing.

3 7. Government Code section 11506 states, in pertinent part:

4 (c) The respondent shall be entitled to a hearing on the merits if the respondent
5 files a notice of defense, and the notice shall be deemed a specific denial of all parts
6 of the accusation not expressly admitted. Failure to file a notice of defense shall
7 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
8 may nevertheless grant a hearing.

9 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
10 of the Accusation/Petition to Revoke Probation, and therefore waived his right to a hearing on the
11 merits of Accusation/Petition to Revoke Probation No. 2013-45.

12 9. California Government Code section 11520 states, in pertinent part:

13 (a) If the respondent either fails to file a notice of defense or to appear at the
14 hearing, the agency may take action based upon the respondent's express admissions
15 or upon other evidence and affidavits may be used as evidence without any notice to
16 respondent.

17 10. Pursuant to its authority under Government Code section 11520, the Board finds
18 Respondent is in default. The Board will take action without further hearing and, based on the
19 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
20 taking official notice of all the investigatory reports, exhibits and statements contained therein on
21 file at the Board's offices regarding the allegations contained in Accusation and Petition to
22 Revoke Probation No. 2013-45, finds that the charges and allegations in Accusation and Petition
23 to Revoke Probation No. 2013-45, are separately and severally, found to be true and correct by
24 clear and convincing evidence.

25 11. Taking official notice of its own internal records, pursuant to Business and
26 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
27 and Enforcement is \$3,730.00 as of June 24, 2013.

28 DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Aaron John Essert has subjected
his Applicator License No. RA52425 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

